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readily become demonstrated facts and the writer presents cases illustrating the tendency of morphine habitues to swear to their own fancies being actual occurrences. From his large experience he concludes that the reliability of morphinists' statements should always be questioned unless substantiated by strongly corroborative testimony. Dr. Crothers believes that the moral disorganization produced by chronic morphinism renders the victim of the habit very susceptible to the perpetration of crime and makes a strong plea for the study of the medico-legal aspect of the disease. The last few chapters of the work are devoted to interesting discussions of other drugs which are of especial value to the medical man.

AMERICAN CASES ON CONTRACTS. Second edition with supplementary cases. By Ernest M. Huffcut and Edwin H. Woodruff. Albany: Banks & Co. 1901. pp. xxv, 898.

Inasmuch as the editors have stated in their preface that the purpose of their collection of cases is three-fold, to wit, to form the basis of "A culture study" in the "undergraduate classes of the university," to form the basis of the professional study of law, and to be of service to practitioners, it is fair to consider the value of the book in all three aspects.

It is to be assumed that what the editors mean by "culture" is mental training, because it is only in that view that the pursuit of a distinctly professional subject would be carried forward as part of a general education in undergraduate classes. Now, of course purely mental exercises could be carried on by dealing with propositions which were not entirely sound, and by the discussion of statements which were not entirely precise, in connection with the study of alleged illustrations of the propositions and statements; but it would probably be undisputed that such mental exercises and study could be equally well carried on by the discussion of sound propositions and precise statements in connection with such cases, and that in the latter event the exercises would be more wholesome, because the danger that the students would acquire inaccurate knowledge would be eliminated. Some of the statements which go to make up the skeleton of the law of contracts provided for the help of students by the editors of the work under consideration are unscientific and not precise, and in some other instances are unsound; and it would seem that even for the pure purpose of mental exercises the student should be furnished with a true and accurate skeleton of the science, if he is to be given any outline at all, in order to enable him to engage in a wholesome exercise. The inaccuracies above referred to, some of which will be pointed out in a moment, would seem to detract from the value of the work, even as the basis of study by classes which are not seeking to learn the law for itself.

From the standpoint of the professional school for the study of law the work is of doubtful value. In the face of the fact that there were other collections of cases on contracts when the book under consideration was published, it might be supposed that the editors of this book would have approached the work with a feeling of considerable diffidence, and even if there had been no such other collections, that they would have approached the work of furnishing a basis for

the study of so great a subject as contracts with considerable humility; and it may be that some of the defects in the work are attributable to the fact that the editors experienced no such diffidence or humility. "It is an additional proof," say the editors, "of the value of law as a culture study, as well as a professional study, that the editors have encountered no difficulty in uniting in a selection of cases equally suited to both purposes." (To make the above sentence mean anything the word "of" after the word "selection" should be stricken out.) The editors are to be congratulated upon their own satisfaction with their work; but their statement is not persuasive.

Not to overstep the limits which the character of a review fixes, consideration of the work may be confined to the three features which seem to distinguish the book from other similar selections of cases, and, therefore, to be fairly assumed to be the features which the editors would claim entitle the book to consideration. These are: (a) the omission of all save American cases from the collection; (b) the incorporation in the work, in the form of headings to the various blocks of cases of a skeleton or summary of the law of contracts; (c) the rewriting or abridging of statements of facts in many of the cases printed in the collection.

The editors of a collection of cases on the law of contracts might properly be held to the burden of giving the reason for omitting such pioneer and leading cases as Adams *v.* Lindsell, Dickenson *v.* Dodd, Dutton *v.* Poole, Shadwell *v.* Shadwell, Lee *v.* Muggeridge, Crisp *v.* Golding, and Eastwood *v.* Kenyon. The editors of the work in hand have not sustained the burden by giving as their reasons, in their preface, that there are "excellent collections of English cases already available," and that by using American cases the student will incidentally acquire a knowledge of American procedure and practice. Surely the editors would not have the student in any particular Law School use two collections of cases, one of English cases and the other of American cases, and surely the editors know that instruction in pleading and practice in connection with a course of instruction on the law of contracts, would only result in inadequacy in both courses, and injury to the student. A student in a professional school of law, who had not been brought to a very intimate acquaintance with such leading cases as above referred to, by the required reading and discussion of them, before his instructor should certify that he had satisfactorily completed a course in contracts, might be very justly indignant. It is submitted that it is vital to good instruction that the student be taken to the *sources*.

The method of the editors in putting propositions of law briefly stated at the head of each block of cases dealing with the particular topic is a matter of grave importance. If the collection of cases were intended to be the basis of the so-called inductive theory of instruction, then the use of brief statements of law at the beginning of the sections of the work is a mistake, because the value of that method of instruction consists, to a large extent, in training the minds of the students to use the cases in much the same way that experiments in chemistry are used to be the basis for the formulation of general propositions on the subject. Therefore, the enunciation at the beginning of propositions which the cases are intended to exemplify is putting

the cart before the horse, and is an attempt to do for the student the work which he should be required to do himself, always subject to the government, correction and aid of the instructor. The enunciation of general propositions should be made by way of summary at the end of the discussion of cases bearing upon any particular point, rather than by way of an introduction to such discussion. This would seem obvious. If on the other hand the cases are printed as an illustration of propositions of law stated at their beginning, then as furnishing a convenient form for the student's reading of such illustrations, the book would be of help, and would enable the student to save much time, provided the instructor were wise in training the student to distrust the soundness of any such propositions, so enunciated, until he had verified it and seen it in all its lights, by a careful reading and a thorough discussion of the cases; but when that is done you will be obliged to a large extent to adopt and follow the inductive system above referred to; and that leads us to the conclusion that the work would be more valuable if the headings of the separate divisions of the work were simply to enunciate the *question* to be determined rather than the *answer* to it.

Then, too, the attempt to epitomize the subjects dealt with in various divisions of the law of contracts inevitably leads to inaccurate, misleading or unscientific statements of the law; and the attempt to analyze the law too finely into propositions capable of statement in a few words is apt to lead to the incorporation under some head, of cases which do not properly belong there, and which could only be included under the more general and full statement of principle.

It may not be out of place to refer to some instances taken at random from the work under consideration.

On page 29, the authors state the proposition that "§ 5. Acceptance is communicated when it is made in a manner prescribed or indicated by the offerer," and the only case printed under this proposition is Tayloe *v.* Merchants' Fire Insurance Co. While this proposition represents undoubtedly the weight of opinion in decided cases, nevertheless, it is more than doubtful whether the view could be sustained as a matter of common sense or principle, and inasmuch as the Courts of Massachusetts, a very respectable authority, have taken the opposite view in McColloch *v.* Eagle Insurance Co., the above quoted statement, without the printing of the last mentioned case in the section, gives the student only a partial view, and also a view which good authorities consider illogical.

On page 50, the proposition is laid down that "An offer is made irrevocable by acceptance"; this language involves a contradiction in terms and would be misleading to one not familiar with the subject. As a matter of law no offer is irrevocable; when an offer is accepted it becomes a contract and ceases to be an offer. The statement is unsound as a matter of law, because it assumes that there could be such a thing as an offer which is not revocable.

The same criticism and comment are applicable to the statement by the authors on page 54, "An offer under seal is irrevocable." Assuming that an offer were put in writing, the fact that a seal was put upon the writing would not in the slightest degree affect the offer. Perhaps the above quoted statement means that it would be assumed

if a seal were put upon an offer that the intention would be to give an option, that is to say, to show the consideration for the offer, but even in that event you would have nothing more than a contract of option, which might be broken, but would still leave the offer as such revocable. You cannot predicate irrevocability of an offer under any circumstances.

On page 92, we find this heading framed by the authors: "Simple Contracts Required to be in Writing: Statute of Frauds." This language, of course, conveys the proposition that some simple contracts are required to be in writing. The proposition is unsound; no simple contracts are required to be in writing; there is no such separate class of contracts as written contracts. The statute of frauds, to which the authors are referring, is purely a rule of evidence, and has nothing to do with the law of simple contracts. Forty pages of the work are devoted to this question of the statute of frauds, and at the very outset of the work. Being a matter purely of procedure and referring only to the question of the form which evidence of certain contracts must take, it is suggested that far too much prominence is given to the question and far too much space devoted to it. Not only is the statement above quoted inaccurate and misleading, but the prominence given to the subject would be likewise misleading to the student.

Again, on page 152, we find the following language of the author: "b. Second test of reality. Was the promisee's act forbearance, sufferance, promise of any ascertainable value?" This is found at the beginning of a series of cases dealing with the question of consideration. Inasmuch as the only test of consideration for a promise is the surrender of all legal right on the part of the promisee, the last quoted language asks a question of no materiality whatever and therefore leads to confusion.

At pages 247 and 257, are printed the cases of Gibson *v.* Pelkie and Wood *v.* Boynton, under the heading: "b. Mistake as to the existence of the thing contracted for." Without going into analyses of the cases under this head any further than the two above mentioned, it is sufficient to say that those two cases are out of place under such a heading, for the reason that the two cases deal solely with the question of *mistake as to identity of subject matter*, if they deal with any mistake at all, which is doubtful.

Under the title of "Discharge of contract by performance," which phrase it might be said, in passing, is considerably like a contradiction in terms, is put the case of Duplex Safety Boiler Company *v.* Garden, *et al.*, at page 546; the case is out of place under such a heading and is simply an illustration of a conditional contract.

The next heading in the volume certainly involves a contradiction in terms; it is "Discharge of contract by breach." That a contract is not discharged by the breach of it is shown by the very significant fact that it is at that moment that a cause of action arises upon the contract. The cases printed at page 560 and 561 under the last mentioned heading are simply illustrations of "Anticipatory Breach," but are put under the designation "(ii.) Impossibility created by one party before performance due."

But it would serve no useful purpose to multiply instances. It is

sufficient to say that upon an examination of the book, one is forced to the conclusion that the work would have been much more serviceable to the student in the professional school if no attempt had been made to enunciate principles of law as headings for the blocks of cases on the various topics, and that if such headings were to be used greater care should have been taken to make them accurate, precise and significant.

The value of that mode of instruction which requires the student to go to the cases for his study of legal principles rests to a large extent upon the training which he will thus receive in disentangling the facts which are material to the decision of the case from those which are immaterial. As a practising lawyer, this is the very thing which he will be called upon constantly to do. Any book of cases therefore, the authors of which have in whole or in part performed this work for the student, by restating, simplifying or abridging the facts involved, will, to the extent to which they do this, defeat the very purpose of such theory of instruction. As a space-saving device, it may be legitimate to omit from the *opinion* those portions which deal with other questions than the one of prime importance, but to omit or altar the statement of facts could have no good result for the reason above suggested.

Referring to the third purpose of the work, as stated, by the authors, it is to be said that as a working tool for practitioners, it would be outclassed by the many and admirable digests which are now available.

In general we feel constrained to say that the book leaves much to be desired, in the matter of plan, scope, and the quality of usefulness.

THE PRACTICE IN CIVIL ACTIONS. By William Rumsey. Second Edition. Revised and Edited by William Rumsey and John S. Sheppard, Jr. Albany: Banks & Co. 1902. pp. xciii, 916.

When announcement was made more than fifteen years ago that a work on practice in the courts of record of New York State, under the Code of Civil Procedure, was being prepared for publication by Justice Rumsey, the information was gladly received. Practitioners of that date, who had any knowledge of the man whose recent death has caused a genuine loss to the profession, recognized his scholarly tastes, his ability and his industry. They felt that there was reasonable ground to expect that the greatly needed book on practice under the reformed procedure would appear; that it would compare favorably with the standard works under the common law system, and would give to the entire subject of practice under the new system something of the same thorough and scientific treatment, which had been given to the topic of the "single civil action" some ten years earlier by Professor Pomeroy in his "Remedies and Remedial Rights." It cannot be denied, however, that the hope was not fulfilled.

It has been generally believed that owing to the unexpected pressure of judicial and other duties, after the work was commenced, Justice Rumsey committed the preparation of a large portion thereof to those who seem to have had little qualification for such a task. Whether this belief is well founded or not, it is certain that to most lawyers of ability the volumes proved a great disappointment, and it